

O/0492/26

TRADE MARKS ACT 1994

**IN THE MATTER OF APPLICATION NO. 4215555
IN THE NAME OF NAVARO GROUP LTD
TO REGISTER THE FOLLOWING TRADE
MARK:**

BREEZIE

IN CLASS 3

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 456388
BY KEY TO PROPERTIES (LONDON) LTD**

Background and pleadings

1. On 8 June 2025, NAVARO GROUP LTD (“the applicant”) applied to register the trade mark as shown on the front page of this decision. It was accepted and published on 29 August 2025 in respect of the following goods:

Class 3: Essential oils; aromatherapy preparations; aromatherapy oils; aromatic inhalers for personal use; nasal sticks for non-medical use; non-medicated nasal inhalers; cosmetic preparations for body care; non-medicated balms; skin fresheners; deodorants for personal use.

2. On 1 September 2025, KEY TO PROPERTIES (LONDON) LTD (“the opponent”) filed a Form TM7 (“Notice of opposition and statement of grounds”). The opposition was brought under section 5(2)(b) of the Trade Marks Act 1994 (“the Act”) and was directed against all the goods in the application.

3. On 13 November 2025, the Tribunal served the TM7 on the applicant, by post and by email. In accordance with Rules 18(1) and 18(3) of the Trade Marks Rules 2008 (“the Rules”), the applicant was informed that it had two months from the date of the letter in which to file its Form TM8 and counterstatement. The date for the filing of Form TM8 was given as 13 January 2026. In addition, the consequences of failing to file a Form TM8 were outlined. The pertinent paragraphs of the letter are as follows:

“Your options

1. Defend your application

Complete and send to us Form TM8 and counter-statement.

This must be filed (i.e. received by us) within **two months** from the date of this letter; that is on or before 13 January 2026.

When completing the counter-statement you must admit (agree) or deny (disagree) each of the grounds of opposition.

It is important to understand that if the deadline date is missed then, in almost all circumstances, the application will be treated as abandoned in accordance with Rule 18(2) of the trade mark Rules 2008: “where the applicant fails to file a Form TM8 and counter-statement within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned.” (original emphasis added)

4. On 13 November 2025 (the same day the Form TM7 was served on the applicant), the applicant filed a document titled “TM8 - Counterstatement” wherein it denied the opponent’s claims. The document was not accompanied by an official Form TM8.

5. On 15 January 2026, the Tribunal wrote to the applicant as follows:

“I apologise for the delay in issuing this correspondence.

I acknowledge your counterstatement filed on 13 November 2025 however it is noted that you have not filed a Form TM8.

Our letter dated 13 November 2025 invited you to file a **Form TM8** and counter-statement on or before 13 January 2026.

As no Form TM8 has been filed within the time period set, Rule 18(2) of the Trade Mark Rules 2008 (as amended) applies. Rule 18(2) states:

“Where the applicant fails to file a Form TM8 or counter-statement within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned.”

It is our preliminary view that the application should be treated as abandoned because no defence (Form TM8) was filed by the deadline referred to above.

If you disagree with the preliminary view, you **must** file the Form TM8 and counter-statement **and** a witness statement setting out the reasons for the failure to meet the deadline on, or before, **29 January 2026**.

If no response is received by this date, the application will be treated as abandoned (i.e. it will be withdrawn)” (original emphasis added)

6. On 29 January 2026, Mr Harry Veys, filed a Form TM8 accompanied by a witness statement. Mr Veys is the director of NAVARO GROUP LTD. As the witness statement did not contain a statement of truth, the Tribunal wrote another letter to the applicant allowing them until 9 March 2026 to file an amended witness statement with a signed declaration of truth. On 2 March 2026, the applicant filed an amended witness statement. The pertinent points are now reproduced below:

I make this statement in support of the applicant, Navaro Group Ltd, in relation to Opposition No. OP000456388.

On 13 November 2025, we submitted a counterstatement by email to the IPO in response to the opposition filed by Key To Properties (London) Ltd. However, due to an oversight, the required TM8 form was not attached at that time.

This was an honest and unintended administrative error. We believed our counterstatement fulfilled the IPO's requirements and were unaware that the TM8 form had not been formally completed and submitted.

As soon as we received the IPO's letter dated 15 January 2026 notifying us of the issue, we acted immediately to correct the mistake. We are now submitting the completed TM8 form and respectfully request that the Registrar exercise discretion under Rule 18(2) of the Trade Mark Rules 2008 to accept this late filing.

Navaro Group Ltd has a genuine intention to defend the BREEZIE mark and has acted in good faith throughout these proceedings. We apologise for any inconvenience caused.

7. On 10 April 2026, by way of official letter, the Tribunal informed the parties as follows:

“I acknowledge receipt of the applicant’s witness statement filed on 02 March 2026.

On review of the applicant’s witness statement and review of the circumstances, it is the Registry’s preliminary to allow the late TM8 into the proceedings. Notwithstanding the error of not filing the Form TM8, the applicant demonstrated a clear intention to defend their mark as highlighted by filing a counterstatement within the TM8 deadline.

If the opponent disagrees with the preliminary view to allow the late TM8 into proceedings, they should request a hearing within 14 days from the date of this letter; that is on or before **24 April 2026**.

If no response is received, the preliminary view will automatically become confirmed and the late TM8 will be examined.”

8. Subsequently, On 13 April 2026, the opponent wrote to the Tribunal to request a hearing. Their email also contained written submissions which I now reproduce below:

1. Request for Hearing

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The Opponent respectfully **disagrees with the Registry’s preliminary view** set out in the letter dated **10 April 2026** and, in accordance with that direction, **requests a hearing**.

2. Objection to the Late Filing of Form TM8

The Applicant failed to file Form TM8 within the prescribed period, with the result that **no valid defence was on record** by the statutory deadline. The explanation provided—an internal administrative oversight—does **not amount to exceptional circumstances** justifying the exercise of discretion under Rule 18(2) of the Trade Marks Rules 2008. Responsibility for ensuring correct and timely filing rests entirely with the Applicant, and inadvertence or misunderstanding of procedural requirements is **insufficient to justify discretionary relief**. Allowing a late TM8 in these circumstances would undermine procedural certainty and unfairly prejudice parties who have complied with statutory deadlines.

3. Prejudice to the Opponent

Allowing the late TM8 would cause **procedural and substantive prejudice** to the Opponent. The Opponent was entitled to proceed on the basis that no valid defence had been filed in time. In addition, the Applicant has already **started commercial activity without clearing earlier rights and now seeks retrospective indulgence** after that commercial risk has arisen. This is unfair to rights-holders who comply with the procedural rules and undermines confidence in the opposition process.

4. Merits Are Not Relevant to the Rule 18(2) Assessment

The Opponent submits that the Applicant's stated intention to defend its mark is **not determinative** of whether discretion should be exercised. Arguments about sector differences, lack of confusion, or coexistence are **substantive matters** which only arise **if** a defence is properly admitted. They are not relevant to the preliminary procedural question of whether the Applicant has shown sufficient justification for late filing under Rule 18(2).

5. Overlap of Goods – “Real Estate” Argument Is Irrelevant

The Applicant's attempt to describe this dispute as one of “real estate versus wellness” is incorrect and misleading. While the Opponent company also has real estate activities, the **trade mark itself is not linked to property services**. The Opponent holds registered rights covering goods that **directly overlap** with the Applicant's intended use, and those goods were included deliberately by us for planned business expansion. The relevant issue is therefore the overlap in goods and the similarity of the marks, not the nature of the Opponent's other business activities. Any reference to real estate relates only to corporate ownership and has no bearing on the scope of the trade

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6. Reliance on Third-Party Marks Is Misplaced

The Applicant's reliance on other allegedly similar marks is misplaced. The existence of third-party registrations does not weaken the Opponent's statutory rights or establish that coexistence is acceptable in this case. Each opposition must be assessed on its own facts, including the similarity of the marks, the specific goods covered, and the commercial context. No evidence has been provided that any cited marks are registered for overlapping goods or are otherwise comparable to the present dispute.

7. Conclusion

For the reasons set out above, the Opponent submits that:

- The Applicant has **not demonstrated sufficient justification** for discretionary relief under Rule 18(2);
- Allowing the late TM8 would **undermine procedural discipline** and unfairly prejudice the Opponent; and
- The Registry's preliminary view should be **set aside**.

Accordingly, the Opponent **requests a hearing** and asks that the late-filed TM8 **not be admitted** into the proceedings.

9. A hearing date was set for 4 June 2026.

THE HEARING

10. The hearing took place before me, by conference call on 4 June 2026 at 10.30am. Only the applicant attended and filed skeleton arguments in advance of the hearing. Prior to the hearing, the opponent confirmed in writing that they would not be able to attend and instead they would rely on their written submissions filed on 13 April 2026.

11. At the hearing, Mr Veys reiterated the points raised in his skeleton arguments which can be summarised as follows:

- He supports the Registry's preliminary view that the late TM8 should be admitted and emphasised that he is a litigant in person with no legal representation.
- He submits that his failure to file a standalone TM8 arose from a genuine misunderstanding and was promptly corrected once identified.
- He filed a counterstatement within the relevant deadline (on 13 November 2025), which he submits clearly demonstrates an intention to defend the proceedings. In addition, he submits that the absence of a separate Form TM8 was an oversight, not an abandonment of the application.

- He submitted that no material prejudice has been caused because the counterstatement was filed on time and a copy sent to the opponent, putting them on clear notice of the applicant's intention to defend. He submitted that admitting the Form TM8 would not place the opponent in any worse position, particularly at this early stage of proceedings.

12. At the conclusion of the hearing, I reserved my decision to give me an opportunity to properly reflect on the submissions put forward by the parties and all the circumstances of the case.

DECISION

13. The filing of a Form TM8 and counterstatement in opposition proceedings is governed by Rule 18 of the Rules. The relevant parts read as follows:

“18. – (1) The applicant shall, within the relevant period, file a Form TM8, which shall include a counter-statement.

(2) Where the applicant fails to file a Form TM8 or counter-statement within the relevant period, the application for registration, insofar as it relates to the goods and services in respect of which the opposition is directed, shall, unless the registrar otherwise directs, be treated as abandoned.

(3) Unless either paragraph (4), (5) or (6) applies, the relevant period is the period of two months beginning immediately after the notification date.”

14. The combined effect of Rules 77(1), 77(5) and Schedule 1 of the Rules means that the time limit in Rule 18, which sets the period in which the defence must be filed, is non-extensible other than in the circumstances identified in Rule 77(5) which states:

“A time limit listed in Schedule 1 (whether it has already expired or not) may be extended under paragraph (1) if, and only if—

(a) the irregularity or prospective irregularity is attributable, wholly or in part, to a default, omission or other error by the registrar, the Office or the International Bureau; and

(b) it appears to the registrar that the irregularity should be rectified.”

15. There has been no suggestion that the late filing of the applicant’s Form TM8 in this instance was because of an irregularity, default, omission or other error on the part of, *inter alia*, the Tribunal. Consequently, the only basis on which the applicant may be allowed to defend the opposition proceedings is if I exercise in its favour the discretion afforded to me by the use of the words “unless the registrar otherwise directs” in Rule 18(2).

16. In approaching the exercise of discretion in these circumstances, I consider the decisions of the Appointed Person in *Kickz AG v Wicked Vision Limited* (“*Kickz*”) ¹ and *Mark James Holland v Mercury Wealth Management Limited* (“*Mercury*”) ² i.e. I must be satisfied that there are extenuating circumstances which justify the exercise of the discretion in the applicant’s favour.

17. In *Music Choice*, the Court indicated that a consideration of the following factors (underlined below) is likely to be of assistance in reaching a conclusion as to whether or not discretion should be exercised in favour of a party in default. That is the approach I intend to adopt, referring to the parties’ submissions to the extent that I consider it necessary to do so.

The circumstances relating to the missing of the deadline including reasons why it was missed and the extent to which it was missed;

¹ BL/O/035/11

² BL/O/050/12

18. The circumstances as to why the deadline was missed are summarised above. The stipulated deadline for the filing of the applicant's Form TM8 and counterstatement was 13 January 2026. This was filed by the applicant on 28 January 2026 (albeit it had previously filed a document titled "TM8 - Counterstatement" wherein it denied the opponent's claims, but without it being accompanied by an official Form TM8, on 13 November 2025). Therefore, the deadline was missed by 15 days.

The nature of the opponent's allegations in its statement of grounds;

19. The opposition is brought under section 5(2)(b) of the Act. Whilst it is not for the present hearing to determine the merits of the case, there is nothing to suggest that the opposition is without merit.

The consequences of treating the applicant as defending or not defending the opposition;

20. If the applicant is allowed to defend the opposition, the proceedings will continue with the parties given an opportunity to file evidence and the matter will be determined on its merits.

21. If, however, the defence is not admitted into the proceedings, the application will be deemed abandoned, and the applicant will lose their filing date of 8 June 2025. It will remain open to the applicant to re-file their application, which may, in turn, be opposed again by the opponent.

Any prejudice caused to the opponent by the delay;

22. The opponent submits that admitting the late TM8 would cause both procedural and substantive prejudice. It says it was entitled to proceed on the basis that no valid defence had been filed in time. It also contends that the applicant had already commenced commercial activity without clearing earlier rights and is now seeking retrospective indulgence. In its view, this is unfair to rights holders who comply with the procedural rules and undermines confidence in the opposition process.

23. At this juncture I wish to highlight that matters raised by the opponent such as the applicant's commercial activity do not arise directly from the procedural issue before me and do not materially assist in determining whether the discretion should be exercised.

Any other relevant considerations such as the existence of related proceedings between the parties;

24. There are no other relevant considerations.

Conclusions

25. In reaching my decision, I recognise that if the discretion is not exercised in the applicant's favour, the opposition will succeed, and the applicant will lose their filing date in respect of all the goods in the application. I further recognise that it may be that the applicant will simply re-file their application and that this may, once again, be opposed by the opponent resulting in opposition proceedings arising at some point in the future. However, as the loss of priority and possibility of further proceedings on much the same basis is often the consequence of a failure to comply with the non-extensible deadline to file a TM8, these are not factors that, in my view, are particularly compelling.

26. I bear in mind that the requirement to file a TM8 is subject to a strict, non-extensible deadline and that a failure to comply will not ordinarily be excused. However, this is not a case of complete inaction. The applicant engaged with the proceedings well within the prescribed period and filed a document two months before the deadline, which was clearly intended to constitute a defence. Although that document did not comply with the formal requirement to file a Form TM8, it nonetheless indicated a clear intention to defend the claim and set out the substance of a defence by denying the opponent's claims. Further, the Tribunal did not notify the applicant of this deficiency until after the expiry of the TM8 period. In my view, had the deficiency been raised in good time, the applicant would have had an opportunity to remedy it within the prescribed period.

27. In order to exercise my discretion to admit the late-filed TM8 and counterstatement into these proceedings, I must take into account all of the circumstances which led to the late filing of the applicant's defence. Having done so, and in particular having regard to the applicant's timely engagement with the proceedings, its clear attempt to file a defence in substance, and the fact that the deficiency in its filing was not raised until after the relevant deadline had expired, I consider that the applicant's reasons are sufficient to constitute extenuating circumstances and compelling reasons. Accordingly, I uphold the preliminary view to admit the late-filed Form TM8.

CONCLUSION

28. The applicant's Form TM8 will be admitted into the proceedings and assessed accordingly. Provided no anomalies are identified, it will be formally served upon the opponent, and the opposition will proceed and a timetable will be set for the filing of evidence.

COSTS

29. Costs will be determined at the conclusion of the substantive proceedings.

Dated this 10th day of June 2026

Catrin Williams
For the Registrar